

EXHIBIT D

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 10 MIGUEL ORTEGA AND BENJAMIN ORTEGA



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 12 IN THE UNITED STATES DISTRICT COURT
 13 NORTHERN DIVISION

14 MIGUEL ORTEGA, and BENJAMIN) Case No.: C 07-02659 JCS (ADR)
 15 ORTEGA,) DECLARATION OF GENESIS PRECIADO
 16 Plaintiffs)
 17 vs.)
 18 CITY OF OAKLAND, et al.,)
 19 Defendants.)

20 I, Genesis Preciado, declare:

21 On May 7, 2006 I was with several friends, including Miguel and Benjamin Ortega. We
 22 were on the corner of International and 62nd Avenue in Oakland, California, returning from a Cinco de
 23 Mayo festival on International Blvd. to Miguel's cousin's home on 62nd Avenue. We were waiting for
 24 Benjamin Ortega (age 15) to cross International Blvd. to reach us. Benjamin waited for the green light,
 25 then began crossing the street in the crosswalk. He was carrying a large Mexican flag. As Benjamin
 crossed the street, a City of Oakland police car came out of a parking lot on the south side of
 International Blvd. and began driving toward the crosswalk where Benjamin was crossing. The police
 car was driving on the wrong side of the street. The police car didn't have any lights or siren on.

26 As Benjamin crossed in front of the police car, I heard the driver of the police car (later
 27 identified as Officer Alcantar) tell Benjamin to "throw that flag away before I shove it up your ass."
 28 Benjamin asked the officer if he could wait until he could put the flag in the house. The Officer told

1 Benjamin "no, right now." Benjamin's brother, Miguel Ortega, told the officer not to talk to his brother
 2 like that. The second, heavier officer in the car (later identified as Officer Ortiz) told Miguel "shut up,
 3 you fat ass."). Miguel then called the heavy officer a "fat ass".

4 The Officers told us to get off the corner or they would arrest us. We all walked to Miguel's
 5 cousin's house on 62nd Avenue (the first house after a vacant lot on the corner). The police car
 6 followed us slowly. When we arrived in front of the house, the officers stopped and ordered all of us to
 7 get off the sidewalk and onto the property. They said that they were going to call Immigration, and that
 8 we better have our green cards. We went into the yard and closed the gate. Miguel went inside the
 9 house.

10 After a few minutes, many police cars arrived, followed by a black Excursion. They stopped in
 11 front of the house. Officer Alcantar began to call to Miguel, who was standing inside the screen door.
 12 Officer Alcantar was asking Miguel "why are you inside; are you holding your mommy's hand?" Miguel
 13 didn't say anything to the officer. Benjamin then said to the officer "at least my momma cares about us;
 14 I don't know about your momma."

15 At that point a lot of police officers came into the yard. Officer Alcantar grabbed Benjamin by
 16 the neck and hit him with the Officer's elbow. Other Officers pushed the rest of us to the side.
 17 Benjamin was forced to the ground. Officer Alcantar placed his knee in Benjamin's back and
 18 handcuffed him. Benjamin was screaming in pain. I could see that Officer Alcantar had Benjamin's
 19 wrist bent and was pushing on the wrist. I heard Officer Alcantar tell Benjamin that if Benjamin did not
 20 say that he was sorry, the Officer would break his wrist. Benjamin said that he was sorry, but Officer
 21 Alcantar kept applying the pressure and forced Benjamin to say "sorry" a second time before the
 22 Officer released Benjamin's hand and put him into the back of the police car.

23 When Miguel opened the door, he was grabbed by three Officers. One held a Taser to his head
 24 and they pushed him off the steps to the ground, where he was handcuffed.

25 I was standing in the front yard, so I had a good view of everything that happened.

26 Officer Alcantar and another Officer placed Benjamin and Miguel into the back seat of Officer
 27 Alcantar's police car. I stayed in the front yard and watched. After a while, all the Officers left, except
 28 Alcantar and Ortiz, who stayed in their car with Miguel and Benjamin.

1 Miguel and Benjamin remained in the car for approximately 20-30 minutes. Finally, the Officers
2 let them go and removed the handcuffs.

3 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is
4 true and correct. Executed on December 5, 2007 at Oakland, California.

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7 GENESIS PRECIADO

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